IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22506 of 2004

Between:

G. Subba Rao, S/o. China Subbarayudu,
R/o. Ward No. 7, Kandukur, Prakasam District.

..... PETITIONER

AND

1 Joint Collector, Prakasam District, Ongole.
2 Revenue Divisional Officer, Kandukur, Prakasam District.
3 The Mandal Revenue Officer, Kandukur, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ Order or direction more particularly in the nature of Writ of Mandamus declaring the impugned proceedings bearing Re F/2865/2004 dt. 22-11-2004 of the 2nd respondent herein suspending the authorisation pending inquiry under 6-A of Essential Commodities Act as arbitrary, illegal and capricious and violative of provisions of AP State Public Distribution System (Control) Order 2001 and consequently direct the respondents herein to restore the authorisation to the petitioner herein forthwith.

Counsel for the Petitioner: MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondent Nos.1 to 3: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following:

ORAL ORDER:

The petitioner is a dealer of Fair Price Shop No.7 of Kandukur town, Prakasham district. His authorization was suspended by the 2nd respondent through his order dated 22-11-2004. The petitioner challenges the same in this writ petition.

Learned counsel for the petitioner submits that the only allegation made against the petitioner is that he has been selling Kerosene unauthorisedly and that there is a discrepancy of three quintals of Wheat. Learned counsel contends that the petitioner was enrolled in 'Gruhamitra Scheme' of Kandukur mandal and that he has been supplied Kerosene under that scheme. He contends that had a notice been issued before resorting to the severe step of suspension of authorization, the petitioner could have certainly explained all these aspects.

Learned Government Pleader for Civil Supplies, on the other hand, submits that once proceedings are initiated under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act'), the suspension of authorization is virtually a matter of course and the petitioner can approach the Joint Collector himself, the 1st respondent herein, for appropriate relief in this regard.

A perusal of the order of suspension dated 22-11-2004 discloses that 2nd and 3rd respondents did not notice any discrepancy in the stocks of essential commodities, except Kerosene Oil and Wheat. On the basis of the discrepancy noticed by them, proceedings were initiated before the 1st respondent under Section 6-A of the Act. It is true that once proceedings are initiated under Section 6-A of the Act, suspension of dealership is almost a matter of course. It is for the 1st respondent to take into account the relevant facts and to decide whether the suspension is warranted, pending disposal of the proceedings before him.

The explanation offered by the petitioner, on the basis of a certificate issued by the

3rd respondent on 22-11-2004 enrolling the petitioner in 'Gruhamitra Scheme in Kandur mandal', is an important fact, which needs to be taken into account. If the petitioner was supplied Kerosene under that 'Gruhamitra Scheme', he cannot be said to have violated any Control Orders. The discrepancy of the stock of Wheat is not only trivial, but is virtually inconsequential for the reason that it is not even remotely alleged that the petitioner is indulging in black marketing of Wheat.

For the foregoing reasons, the writ petition is disposed of directing that it shall be open to the petitioner to approach the 1st respondent seeking appropriate interim orders, including the stay of suspension of authorisation. As and when such an application is filed, the 1st respondent shall pass appropriate orders within one week from the date of application, duly taking into account the relevant facts such as the effect of enrollment of the petitioner under 'Gruhamitra Scheme'etc.,

The writ petition is accordingly disposed of. No costs.

L. NARASIMHA REDDY, J

Dt. 07-12-2004

Pvks/*

Nb: Furnish c.c. in three days.

B/o

Pvks/*

To

1. The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional Officer, Kandukur, Prakasam District.
3 The Mandal Revenue Officer, Kandukur, Prakasam District.

4.2CCs to the Government Pleader for Civil Supplies, A.P. High Court Buildings, Hyderabad (OUT).

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